

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 1406 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SHIVDAYAL KAVATRA

Versus

PRABHUDAS THAKARSI FICHADIA

Appearance:

MR KS NANAVATI for Petitioner

MR MC BHATT for L.R.s of deceased Respondent No. 1

MR SP DAVE, LD. APP for Respondent No. 2

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 17/04/98

ORAL JUDGEMENT

1. This acquittal appeal u/S. 378 of the Code of Criminal Procedure, 1973 (II of 1974) has been directed against the impugned judgment and order dated 7/6/1984 rendered by the learned Judicial Magistrate First Class, Dwarka in Criminal Case No. 1404 of 1981.

2. After this appeal was placed for final hearing before this Court, following order was required to be passed on 12/3/1998 :-

"This appeal has been on the board of final hearing since 9th February, 1998. On none of the occasions Mr. J.A. Shelat, learned advocate appearing for the respondent no. 1 (the accused) has remained present. Under such circumstances, following order is required to be passed :-

Process of notice/summons be issued to the respondent no. 1 (accused) Prabhudas Thakersi Fichadia, directing him to remain present before this Court on 30th Marchj, 1998. Direst service as well as service by Registered A.D. Post is permitted. S.O. to 30/3/1998."

2. On 30/3/1998 one Mr. Sunil Prabhudas Fitchadia, son of deceased respondent no. 1 filed affidavit stating therein that respondent no. 1, his father, unfortunately died on 15/6/1996.

3. In view of the aforesaid development in the matter, it has been submitted that this appeal would not survive and would stand abated. The petitioner has not made any submission or application for further continuation of the appeal against the aforesaid legal representative of deceased respondent no.1. In fact there is no provision in the Code which would enable continuation of these appellate proceedings against the aforesaid legal representative of the respondent. In that view of the matter, following order is passed :-

This appeal stands abated on account of death of respondent no.1. It is accordingly disposed of.

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** PVR ** cr.a140684j.